



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/974,621	11/19/1997	TAKESHI NISHI	07977/202001	8449

20985 7590 10/03/2003
FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

EXAMINER

NGUYEN, DUNG T

ART UNIT PAPER NUMBER

2871

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/974,621

Applicant(s)

NISHI, TAKESHI

Examiner

Dung Nguyen

Art Unit

2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-17 and 19-34 is/are rejected.
- 7) ☒ Claim(s) 11 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/14/2003 has been entered.
2. Applicant's amendment dated 06/17/2003 has been received and entered.

Specification

1. The specification stand objected to as failing to provide proper antecedent basis for the claimed subject matter as stated in the last final office action.

Applicant contends that Examiner's interpretation of the term "consisting of a porous layer" is improper since the language on which the Examiner relies would only prevent the reflecting films from including other layer(s), and would not prevent the porous layer from having other properties (amendment, page 8). The Examiner agrees that the term "consisting of" in "consisting of a porous layer" would not prevent the porous layer from having other properties (i.e., properties of the porous layer such as shape, dimension of the pore); however, Applicant recites a limitation of each layers of the light reflective film "having concavities and convexities" and "porous surface" (i.e., layers including concavities and convexities and porous surface)(see claims 1, 8, 14, 19, 23, 27 and 31). Furthermore, as stated in the final office action dated 12/17/2002, although Applicant does disclose the light reflecting film can be include concavities

Art Unit: 2871

and convexities or irregular surface, Applicant does not disclose any combination of such concavities/convexities and porous surface as claimed. In other words, the specification fails to provide proper antecedent basis for the claimed subject matter.

Accordingly, the objection to the specification stand.

Claim Rejections - 35 USC § 103

2. Claims 1-8, 12-17, 19-34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada et al., US Patent No. 5,805,252, in view of Yoshihiro, US Patent No. 5,550,658, as stated in the last final office action.

Regarding claims 1, 8, 14, 19, 23, 27 and 31, although those claims are now amended to recite the limitation of "porous surface including pores with controlled diameters and depths", such amendment are not sufficient to overcome its rejection in the previous office action since the same is true of the Shimada et al. reflecting film (see col. 10, lines 16-18).

Regarding dependent claims 2-7, 12, 13, 15-17, 20-22, 24-26 and 28-34, the rejection of those dependent claims stand since the rejection of claims 1, 8, 14, 19, 23, 27 and 31 stand as discussed above.

Accordingly, the rejection of the above claims stand.

Allowable Subject Matter

3. Claims 11 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Kadowaki et al. (US 6,025,893) disclose a reflecting layer (dielectric mirror layer 12) can be composed of a multiple layered film and is formed in the porous manner (col. 5, lines 8-14).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Nguyen whose telephone number is 703-305-0423. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim can be reached on 703-305-3492. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

DN
09/22/2003



Dung Nguyen
Patent Examiner
Art Unit 2871